



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 29, 2010

Ms. Jessica Sangsvang
Assistant City Attorney
The City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2010-11374

Dear Ms. Sangsvang:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 388387 (City Request No. W001000).

The City of Fort Worth (the "city") received a request for a specified incident report. You state you have redacted certain Texas motor vehicle record information relating to an individual other than the requestor under section 552.130 of the Government Code pursuant to previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You also state you have redacted a social security number under section 552.147 of the Government Code.¹ You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication

¹We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

CHS

July 29, 2010

Ms. Jessica Sangsvang
Assistant City Attorney
The City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2010-

11374

Dear Ms. Sangsvang:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 388387 (City Request No. W001000).

The City of Fort Worth (the "city") received a request for a specified incident report. You state you have redacted certain Texas motor vehicle record information relating to an individual other than the requestor under section 552.130 of the Government Code pursuant to previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You also state you have redacted a social security number under section 552.147 of the Government Code.¹ You claim portions of the submitted information are excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts, the publication

¹We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *See id.* at 683. Upon review, we agree that a portion of the submitted information is highly intimate or embarrassing and not of legitimate concern to the public. Accordingly, the city must generally withhold the information we have marked under section 552.101 in conjunction with common-law privacy. However, you have not demonstrated the remaining information is highly intimate or embarrassing and not of legitimate public concern. Therefore, no portion of the remaining information may be withheld under section 552.101 on that basis.

We note, however, that the requestor is the mother of the person whose privacy rights are implicated and may be acting as a representative of that individual. Section 552.023(a) of the Government Code states that a person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and is protected from public disclosure by laws intended to protect that person's privacy interests. Gov't Code § 552.023. Therefore, if the requestor is the authorized representative of the individual at issue, the city may not withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy. If the requestor is not the authorized representative of the individual at issue, the city must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy.

Additionally, you state you redacted certain Texas motor vehicle record information under section 552.130 of the Government Code pursuant to previous determinations issued by the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See Gov't Code § 552.301(a); ORD 673.* You also state that you have redacted a social security number pursuant to section 552.147 of the Government Code. However, because sections 552.130 and 552.147 are based on privacy principles, the requestor may have a right of access to her son's Texas motor vehicle information and social security number under section 552.023 of the Government Code. *See Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987)* (governmental body may not deny access to person to whom information relates or person's authorized representative on grounds that information is considered confidential by privacy principles). Accordingly, if the requestor is her son's authorized representative, then the Texas motor vehicle information and social security number you redacted may not be withheld from this requestor. If the requestor is not her son's authorized representative, then the marked motor vehicle information must be withheld under section 552.130 of the Government Code, and the marked social security number may be withheld under section 552.147 of the Government Code.

In summary, if the requestor is the authorized representative of the individual whose private information is at issue, the city may not withhold the information we marked under

section 552.101 in conjunction with common-law privacy and the information you redacted under sections 552.130 and 552.147. If the requestor is not acting as an authorized representative, the city must withhold the information we marked under section 552.101 in conjunction with common-law privacy and the information you marked under section 552.130. The city may also withhold the social security number you marked under section 552.147. In either instance, the remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Chris Schulz
Assistant Attorney General
Open Records Division

CS/em

Ref: ID# 388387

Enc. Submitted documents

c: Requestor
(w/o enclosures)